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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,719	08/08/2006	Cordula Mock-Knoblauch	294185US0PCT	1965

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.		
1940 DUKE STREET		
ALEXANDRIA, VA 22314		

EXAMINER	
CHIN, HUI H	

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
12/24/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/588,719	<b>Applicant(s)</b> MOCK-KNOBLAUCH ET AL.	
	<b>Examiner</b> HUI CHIN	<b>Art Unit</b> 1796	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-29 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-29 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. The office action is in reference to the Amendment, filed on 10/21/2009. Claims 1-16 and 30-33 have been canceled and claim 17 has been amended. Claims 17-29 and 34 are now pending.
2. In view of the Response, the previous rejections of claims 17-22, 24, 26-29, and 34 under 35 U.S.C. 102(b) as being anticipated by Huffer et al. (US 2005/0090611), claim 25 under 35 U.S.C. 103(a) as being unpatentable over Huffer et al. (US 2005/0090611) in view of Lange et al. (US 2004/0171759), and claim 23 under 35 U.S.C. 103(a) as being unpatentable over Huffer et al. (US 2005/0090611) in view of Allgaier et al. (US Patent 6,677,293) are maintained.

### ***Claim Rejections - 35 USC § 102***

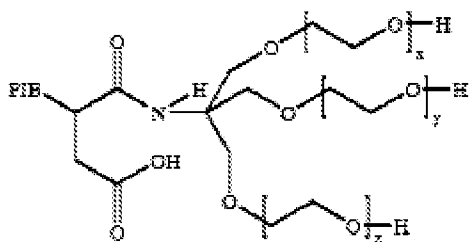
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 17-22, 24, 26-29, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Huffer et al. (US 2005/0090611).

Huffer et al. disclose a cosmetic preparation comprising an oil-in-water emulsion which contains a) one or more of amphiphilic compounds which are composed of a hydrophobic compound which is formed from a polyisobutylenes which have a high content of terminal double bonds ( $\geq 70$  mol %), and a hydrophilic compound, b) oil, and c) water (claims 24, 44; [0011] - [0029]; [0101]; [0136]). Huffer et al. further disclose the emulsion can contain one or more emulsifiers, which reads on “comprising a surfactant and a cosurfactant” wherein the amount of surfactant is from 0.5 to 5% by weight and the total amount of emulsifier does not exceed the amount of from 0.2 to 10% by weight based on the total composition (claim 44, [0135]).



The limitations of claims 18 and 19 can be found in Huffer et al. at paragraph [0101], where it discloses polyisobutylenes having  $\geq 70$  mol % of terminal double bonds.

The limitations of claim 20 can be found in Huffer et al. at paragraph [0100], where it discloses polyisobutylenes having a number average molecular weight of from 300 to 10,000.

The limitations of claim 21 can be found in Huffer et al. at paragraph [0103], where it discloses polyisobutylenes having a polydispersity of  $\leq 3.0$ .

The limitations of claim 22 can be found in Huffer et al. at paragraph [0097], where it discloses the hydrophilic unit is ethylene oxide.

The limitations of claim 24 can be found in Huffer et al. at paragraphs [0079] – [0080], where it discloses the functionalization of polyisobutene with polar groups.

The limitations of claim 26 can be found in Huffer et al. at paragraph [0201], where it discloses the AB structure.

The limitations of claims 27 and 29 can be found in Huffer et al. at abstract, where it discloses the composition of a lipophilic part which is formed by a polyisobutylene group and a hydrophilic part. Huffer's composition would result in substantially the same properties (narrow homolog distribution) as the applicant's composition based on the inherency of the combination of hydrophobic and hydrophilic subunits.

The limitations of claim 28 can be found in Huffer et al. at paragraph [0010], where it discloses the use as emulsifiers.

The limitations of claim 34 can be found in Huffer et al. at paragraph [0042], where it discloses detergent.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer et al. (US 2005/0090611) in view of Lange et al. (US 2004/0171759).

Huffer et al. disclose a cosmetic preparation comprising an oil-in-water emulsion which contains a) one or more of amphiphilic compounds which are composed of a hydrophobic compound which is formed from a polyisobutylenes which have a high content of terminal double bonds ( $\geq 70$  mol %), and a hydrophilic compound, b) oil, and c) water (claims 24, 44; [0011] - [0029]; [0101]; [0136]). Huffer et al. further disclose the emulsion can contain one or more emulsifiers, which reads on “comprising a surfactant and a cosurfactant” (claim 44).

Huffer et al. are silent on the functionalization of polyisobutenes.

Lange et al. disclose the functionalization of polyisobutenes ([0019] – [0028]) to provide a polymer composition which has good mechanical properties and/or good interfacial properties, is easy to process and is stable to demixing ([0006]). In light of such benefit, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the functionalized polyisobutenes in the disclosure of Huffer et al. with the expected success because Lange et al. has demonstrated that the functionalized polyisobutenes can be used to achieve improved properties.

The limitations of claim 25 can be found in Lange et al. at paragraphs [0019] - [28], where it discloses the functionalization of polyisobutenes.

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7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer et al. (US 2005/0090611) in view of Allgaier et al. (US Patent 6,677,293).

Huffer et al. disclose a cosmetic preparation comprising an oil-in-water emulsion which contains a) one or more of amphiphilic compounds which are composed of a hydrophobic compound which is formed from a polyisobutylenes which have a high content of terminal double bonds ( $\geq 70$  mol %), and a hydrophilic compound, b) oil, and c) water (claims 24, 44; [0011] - [0029]; [0101]; [0136]). Huffer et al. further disclose the emulsion can contain one or more emulsifiers, which reads on "comprising a surfactant and a cosurfactant" (claim 44).

Huffer et al. are silent on the hydrophilic unit to be a specific compound.

Allgaier et al. disclose the block copolymer having a water-soluble block and a water-insoluble block (col. 2 lines 1-2). Allgaier et al. further disclose that the resulting block copolymer raise the efficiency of surfactants and reduce the interfacial surface tension between water and oil (col. 1 lines 47-50). In light of such benefit, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the block copolymer disclosed by Allgaier et al. with the expected success because Allgaier et al. has demonstrated that such block copolymer can be used to improve the properties.

The limitations of claim 23 can be found in Allgaier et al. at col. 2, line 30, where it discloses the polyvinyl alcohol.

### ***Response to Arguments***

5. Applicants' arguments filed 10/21/2009 have been fully considered and are not persuasive.

Applicants had argued that "Huffer teaches away from the invention methods. Par. [0135] of Huffer teaches that surfactants, if added, are present in an amount of no more than 5% where total emulsifier content is no more than 10%. This paragraph goes on to state that preferably 1 to 2.5% surfactant is present." Attention is drawn to that all weight percentages are based on the total composition. If surfactant is from 1 to 2.5% and total weight of surfactant + cosurfactant is from 0.2 to 10% which means the cosurfactant is from 0 to 7.5%. This range overlaps the claimed range. Unexpected results are sought to demonstrate the importance of this specific range.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUI CHIN whose telephone number is (571)270-7350. The examiner can normally be reached on Monday to Friday; 8:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ling-Siu Choi/  
Primary Examiner, Art Unit 1796

/HC/

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